

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Competitive Product Prices  
Alternative Delivery Provider 1  
(MC2017-82 / CP2017-111)  
Negotiated Service Agreement

Docket No.CP2018-38

PUBLIC REPRESENTATIVE COMMENTS ON  
NOTICE OF UNITED STATES POSTAL SERVICE OF FILING  
A FUNCTIONALLY EQUIVALENT ALTERNATIVE DELIVERY PROVIDER 1  
NEGOTIATED SERVICE AGREEMENT

(November 8, 2017)

The Public Representative hereby provides comments pursuant to Commission's Notice initiating this docket.<sup>1</sup> In that Notice, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Notice of filing an additional Alternative Delivery Provider 1 (ADP 1) agreement (Agreement).<sup>2</sup>

The Postal Service's Notice includes a public (redacted) version of the Agreement, a certified statement of compliance required by 39 CFR 3015(c)(2), and a public version of Governors' Decision No. 11-6. The Postal Service also filed under seal the full (unredacted) text of the Agreement, Governor's Decision No. 11-6 and a supporting financial model estimating the contract value.

*Background.* Agreements within the ADP 1 product offer incentive pricing to mailers that send items to foreign destinations using this product. Notice at 4. Prices

---

<sup>1</sup> Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, November 1, 2017.

<sup>2</sup> Notice of United States Postal Service of Filing a Functionally Equivalent Alternative Delivery Provider 1 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, October 31, 2017 (Notice).

offered pursuant to an agreement may differ from mailer to mailer depending upon the volume or postage commitments made by such mailers. *Id.*

Prices and classifications not “of general applicability” for ADP agreements were previously established by Governors’ Decision No. 11-6.<sup>3</sup> In Order No. 3793, the Commission established ADP 1 as a product on the competitive product list.<sup>4</sup>

The intended effective date of the Agreement is November 15, 2017. Notice at 3. The Agreement is to remain in effect for one calendar year from the effective date, or the last day of the month which falls one calendar year from the effective date, unless terminated sooner. *Id.*

The Postal Service states that the Agreement is functionally equivalent to the baseline agreement and is in compliance with the requirements of 39 USC 3633. Notice at 5. The Postal Service therefore states that the Agreement “should be added to the ADP 1 product grouping.” *Id.*

## COMMENTS

The Public Representative has reviewed the Postal Service’s Notice, the Agreement, and supporting financial model filed under seal accompanying the Notice. Based upon that review, the Public Representative concludes that the Agreement is functionally equivalent to the baseline agreement. In addition, the negotiated prices in the Agreement should generate sufficient revenues to cover costs and thereby satisfy the requirements of 39 USC 3633.

*Functional Equivalence.* The Postal Service asserts that the Agreement “shares similar cost and market characteristics . . . [and the] functional terms of the contract at

---

<sup>3</sup> See United States Postal Service Notice of Filing Redacted Copy of Governors’ Decision No. 11-6, March 22, 2011.

<sup>4</sup> See PRC Order No. 3793, Order Adding Alternative Delivery Provider 1 to the Competitive Product List and Designating Baseline Agreement, Docket No. CP2017-111, February 16, 2017.

issue are the same as those of the contract that is the subject of Docket No. CP2017-111, which serves as the baseline agreement for the ADP 1 product grouping.” *Id.* at 3. In this regard, the Postal Service identifies a number of differences between the Agreement and the ADP 1 baseline agreement. *Id.* at 4-5. Most of these differences consist of changes to contract terms that affect certain obligations of the mailer and are similar to those included in other recent ADP 1 agreements, or are specific to the mailer (*i.e.*, mailer name, address, and identification of mailer’s representative to receive notice). The Postal Service maintains that these specified differences do not affect either the fundamental service the Postal Service is offering or the fundamental structure of the Agreement. *Id.*

The Public Representative’s review of the financial model reveals that the Agreement features similar cost and market characteristics to the baseline agreement. Therefore, the Public Representative concludes that the Agreement is functionally equivalent to the baseline agreement and should be added to the ADP 1 product.

39 USC 3633. Pursuant to 39 USC 3633(a), the Postal Service’s competitive prices must ensure that each competitive product will cover its attributable costs; ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service; and, not result in the subsidization of competitive products by market dominant products.

The Postal Service’s financial model does not directly address whether the addition of the Agreement to the ADP 1 product will result in the product as a whole covering costs as required by 39 USC 3633(a)(2). However, the financial model does indicate that the negotiated rates in the Agreement will generate sufficient revenues to cover its attributable costs. Therefore, the addition of the Agreement to the ADP 1 product should not cause the product’s cost coverage to fall below 100 percent. As a result, the addition of the Agreement to the ADP 1 product should allow the product to continue to comply with 39 USC 3633(a)(2), and should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 USC 3633(a)(1). Moreover, the ADP 1 product should improve the likelihood that

competitive products as a whole contribute an appropriate share to the Postal Service's institutional costs, consistent with 39 USC 3633(a)(3).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

---

Christopher C. Mohr  
Public Representative

901 New York Ave. NW  
Washington, DC 20268-0001  
202-789-6857  
Christopher.mohr@prc.gov